



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,857	08/14/2003	Scott Koenig	13783-105022	1191
65989 7590 11/30/2007 KING & SPALDING 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036-4003				
			EXAMINER CROWDER, CHUN	
			ART UNIT 1644	PAPER NUMBER
			NOTIFICATION DATE 11/30/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomailnyc@kslaw.com

Office Action Summary

Application No.

10/643,857

Applicant(s)

KOENIG ET AL.

Examiner

Chun Crowder

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/19/2007 and 11/16/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 108-115, 123 and 125-136 is/are pending in the application.
- 4a) Of the above claim(s) 112-115 and 125-130 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 108-111, 123, and 131-136 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/19/07 and 11/16/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendments, filed on September 19, 2007, are acknowledged.

Claims 1-107, 116-122, and 124 have been canceled.

Claims 131-136 have been added.

Claims 108-115, 123, 125-136 are pending.

Claims 112-115 and 125-130 have been withdrawn from further consideration by the Examiner under 37 C.F.R. 1.142(b) as being drawn to nonelected invention.

Claims 108-111, 123, and newly added claims 131-136 are currently under consideration as they read on the elected invention of an antibody and species of clone 1F2 that is not conjugated, does not comprise a modification in the Fc region and antagonizes at least one activity of the FcγRIIB.

2. This Office Action will be in response to applicant's arguments, filed on September 19, 2007.

The rejections of record can be found in the previous Office Action, mailed on March 19, 2007.

4. Applicant's IDSs, filed on September 19, 2007 and November 16, 2007, have been considered.

5. Applicant's amendment to the instant specification, filed on September 19, 2007, is acknowledged.

6. In light of applicant's amendment to the claims, only the following rejection has been maintained. Further, in view of the amendment to the claims of the copending USSN 11/305,787, the prior provisional obviousness-type double patenting rejection has been withdrawn.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 108-111, 123, and newly added claims 131-136 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention for reasons of record set forth in the previous Office Action mailed on March 19, 2007.

Applicant's submission of the Statement Regarding the Permanence and Availability of Deposited Microorganisms under 37 C.F.R. 1.801-1.809, filed on September 19, 2007, is acknowledged.

Applicant asserts that the elected hybridoma, 1F2 having ATCC Accession Number PTA-5959, producing the claimed mouse monoclonal antibody has been deposited under the Budapest Treaty and that the hybridoma *will be irrevocably and without restriction or condition released to the public upon the issuance of a patent.*

Given the deposit of hybridoma 1F2 was made on 05/07/2004 that is after the effective filing date of the application (08/14/2003), applicant is required to submit a verified statement from a person in a position to corroborate that the hybridoma 1F2 described in the specification as filed are the same as that deposited in the depository. Corroboration may take the form of a showing of a chain of custody from applicant to the depository coupled with corroboration that the deposit is identical to the biological material described in the specification and in the applicant's possession at the time the application was filed.

However, applicant fails to submit a verified statement as discussed above.

During a telephone call to applicant's representative Richard Enman Jr. on November 16, applicant was reminded to file the verified statement as discussed above. However, Mr. Enman indicated that the inventors were unavailable to produce the verified statement at this time.

Therefore, the rejection has been maintained until such time that a verified statement from a person in a position to corroborate that the hybridoma 1F2 described in the specification as filed are the same as that deposited in the depository has been filed.

9. Conclusion: no claim is allowed.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Crowder whose telephone number is (571) 272-8142. The examiner can normally be reached Monday through Friday from 8:30 am to 5:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

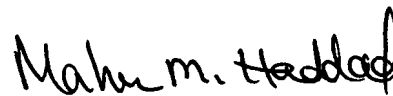
Art Unit: 1644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chun Crowder, Ph.D.

Patent Examiner

November 19, 2007

A handwritten signature in black ink, reading "Maher M. Haddad". The signature is written in a cursive style with a large, stylized initial 'M'.

MAHER M. HADDAD
PRIMARY EXAMINER